

Message Text

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ACTION NEA-10

INFO OCT-01 EUR-12 IO-14 ISO-00 NEAE-00 SAA-01 SSO-00
NSCE-00 INRE-00 ICAE-00 CIAE-00 DODE-00 PM-05
H-02 INR-10 L-03 NSAE-00 PA-02 SP-02 SS-15
ACDA-12 HA-05 SSM-05 /099 W
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O 121148Z JUL 78
FM AMEMBASSY TEL AVIV
TO SECSTATE WASHDC IMMEDIATE 4117
INFO AMEMBASSY AMMAN
AMEMBASSY CAIRO IMMEDIATE
AMEMBASSY DAMASCUS
AMEMBASSY JIDDA
AMEMBASSY KUWAIT
AMEMBASSY LONDON
AMEMBASSY PARIS
AMCONSUL JERUSALEM
USMISSION USUN NY
USMISSION SINAI

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E. O. 11652: NA
TAGS: PEPR IS EG
SUBJ: MFA LEGAL ADVISER BRIEFS PRESS ON EGYPTIAN PROPOSAL

1. THE FOLLOWING TRANSCRIPT OF AN ANALYSIS OF THE EGYPTIAN PROPOSAL PRESENTED TO THE PRESS BY THE MFA'S LEGAL ADVISER APPEARED IN THE GOI PRESS BULLETIN FOR JULY 11.

2. BEGIN TEXT: DR MEIR ROSENNE, LEGAL ADVISER TO THE FOREIGN MINISTRY, TODAY (11 JULY), MADE THE FOLLOWING INTRODUCTORY STATEMENT AT A PRESS BRIEFING IN BEIT AGRON, JERUSALEM:

I AM SORRY IF I AM GOING TO BE LEGALISTIC, BUT WE ARE DEALING WITH DOCUMENTS, AND THESE DOCUMENTS OF COURSE REFLECT POLITICAL POSITIONS:

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WHEN ONE READS THE EGYPTIAN PROPOSAL, YOU REALIZE THAT THERE IS A CHANGE TO THE WORSE IF YOU COMPARE THIS PROPOSAL WITH ALL THE EGYPTIAN PROPOSALS THAT WERE SUBMITTED BOTH IN ISMAILIYA AND IN THE POLITICAL COMMITTEE IN JERUSALEM IN JANUARY OF THIS YEAR:

(1) THE TITLE OF THIS PROPOSAL REFERS EXCLUSIVELY TO THE ISRAELI WITHDRAWAL AND TO SECURITY ARRANGEMENTS. THERE

IS NO REFERENCE WHATSOEVER TO PEACE TREATIES IN THE TEXT ITSELF, AND IF YOU TAKE THE EGYPTIAN PROPOSAL THAT WAS SUBMITTED TO US IN JERUSALEM, YOU HAVE THERE A SPECIFIC PARAGRAPH THAT READS: "TERMINATION OF ALL CLAIMS OR STATES OF BELLIGERENCY AND THE ESTABLISHMENT OF PEACEFUL RELATIONS AMONG ALL THE STATES IN THE AREA THROUGH THE CONCLUSION OF PEACE TREATIES IN ACCORDANCE WITH THE UNITED NATIONS CHARTER." THERE WAS A SPECIFIC REFERENCE TO PEACE TREATIES. NO SUCH REFERENCE IS MADE HERE.

(2) THE REFERENCE TO SECURITY COUNCIL RESOLUTION 242 AND 338, THAT YOU HAD IN ALL THE PREVIOUS DOCUMENTS, IS ABSENT. THE ONLY PART OF RESOLUTION 242 THAT WAS TAKEN OUT AND WAS DISTORTED IS THE CLAUSE REFERRING TO WITHDRAWAL. I SAY THAT IT WAS DISTORTED BECAUSE RESOLUTION 242 - AS YOU KNOW AND AS IT IS GENERALLY ACCEPTED BY MOST OF THE WESTERN COUNTRIES INCLUDING THE U.S. - DOES NOT IMPOSE ANY OBLIGATION ON ISRAEL TO WITHDRAW TOTALLY FROM ALL THE TERRITORIES.

(3) FOR THE FIRST TIME IN WRITTEN FORM YOU HAVE A REFERENCE TO A DEMAND FOR ISRAELI WITHDRAWAL FROM JERUSALEM. YOU DID NOT HAVE IT IN THE PROPOSAL SUBMITTED TO US IN ISMAILIYA OR IN JERUSALEM, ALTHOUGH, VERBALLY SUCH A DEMAND WAS MADE IN PRESIDENT SADAT'S SPEECH IN THE KNESSET, IT WAS NEVER SUBMITTED IN WRITTEN FORM.

(4) IT'S NOT TRUE THAT THIS EGYPTIAN PROPOSAL INCLUDES WHAT IS KNOWN AS THE 'ASWAN FORMULA.' THE ASWAN FORMULA WAS THE STATEMENT MADE BY PRESIDENT CARTER ON 4 JANUARY OF THIS UNCLASSIFIED

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YEAR IN ASWAN, AND THIS FORMULA FOR THE SOLUTION OF THE CONFLICT IN THE MIDDLE EAST REFERS TO THE NEED TO HAVE PEACE TREATIES TO SOLVE THE PROBLEM ON THE BASIS OF RESOLUTIONS 242 AND 338, AND THE PALESTINIAN PART OF THIS FORMULA READS, AND I QUOTE: "THERE MUST BE A RESOLUTION OF THE PALESTINE PROBLEM IN ALL ITS ASPECTS. THE PROBLEM MUST RECOGNIZE THE LEGITIMATE RIGHTS OF THE PALESTINIAN PEOPLE AND ENABLE THE PALESTINIANS TO PARTICIPATE IN THE DETERMINATION OF THEIR OWN FUTURE." WHILE HERE THE REFERENCE IS "TO PARTICIPATE IN THE DETERMINATION OF THEIR OWN FUTURE," IT'S STATED ALL ALONG THIS (RECENT) DOCUMENT IN THREE OF ITS PARAGRAPHS THAT THE PALESTINIAN PEOPLE WILL BE ABLE TO DETERMINE THEIR OWN FUTURE. THERE IS A DIFFERENCE BETWEEN PARTICIPATING IN THE DETERMINATION OF YOUR FUTURE OR WHEN YOU SAY "WILL DETERMINE THEIR OWN FUTURE."

(5) THE REFERENCE TO THE UN RESOLUTIONS CONCERNING THE REFUGEES: AS YOU KNOW IN SECURITY COUNCIL RESOLUTION 242 THERE IS A REFERENCE TO THE NEED TO FIND A JUST SOLUTION TO THE PROBLEM OF THE REFUGEES. AND THE INTERPRETATION GIVEN IS THAT THE CLAUSE REFERS BOTH TO JEWISH AND TO ARAB REFUGEES, AND THIS WAS INCLUDED ALSO IN THE WORKING PAPER ADOPTED BY THE GOVERNMENT OF THE UNITED STATES AND OF ISRAEL ON OCTOBER

5TH 1977 IN NEW YORK. IN THE PRESENT EGYPTIAN PROPOSAL,
FOR THE FIRST TIME YOU HAVE A REFERENCE TO "MODALITIES FOR
THE IMPLEMENTATION OF RELEVANT UN RESOLUTIONS ON PALESTINIAN
REFUGEES." (ARTICLE 3, PARA D). FIRST OF ALL, ALL THE
RESOLUTIONS ADOPTED BY THE GENERAL ASSEMBLY ARE NOT LEGALLY
BINDING, AS IT'S WELL KNOWN THE ONLY BINDING RESOLUTIONS OF
THE UN CONCERNING THE MIDDLE EAST ARE RESOLUTIONS 242 AND 338
THAT WERE ACCEPTED BY ALL THE PARTIES. WHEN YOU MENTION IN

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A PROPOSAL THAT YOU ARE GOING TO SOLVE THIS PROBLEM ON THE
BASIS OF ALL THE RELEVANT RESOLUTIONS ON PALESTINIAN REFUGEES,
THESE RESOLUTIONS THAT WERE ADOPTED BY A POLITICAL BODY WHERE
THE ARAB STATES HAVE AN AUTOMATIC MAJORITY WITH THE COMMUNIST
COUNTRIES AND THOSE STATES THAT HAVE NO DIPLOMATIC RELATIONS
WITH ISRAEL, THERE IS A REQUEST TO ACCEPT BACK ALL THE REFUGEES
BOTH OF 1948 AND OF 1967, WHICH IMPLIES THE END OF THE STATE
OF ISRAEL VERY SIMPLY.

(6) FOR THE FIRST TIME EGYPT SUBMITS A PROPOSAL IN WHICH,
BESIDES THE PARTIES CONCERNED THAT NEGOTIATED IN CAIRO AND
ISMAILIYA AND JERUSALEM (THAT WERE EGYPT AND ISRAEL, THROUGH

THE GOOD OFFICES OF THE UNITED STATES), AND THIS PROPOSAL, THE EGYPTIAN PROPOSAL, IS TO HAVE THE UN AS A PARTICIPANT IN THE NEGOTIATIONS, YOU IMPLY THAT ALL THE RELEVANT RESOLUTIONS ADOPTED BY THE UN, MAYBE THE RESOLUTION CONCERNING ZIONISM TOO, WILL SERVE AS A BASIS FOR THE DISCUSSION. AND THE UN HAS TO BE GIVEN A SPECIFIC ROLE: IT'S MENTIONED THAT THE UN SHALL SUPERVISE AND FACILITATE THE ISRAELI WITHDRAWAL AND THE RESTORATION OF ARAB AUTHORITY. THIS IS NOT TO DEAL WITH DEMILITARIZED ZONES, WITH SUPERVISION OF AREAS WITH LIMITED FORCES AND ARMAMENTS, BUT TO SUPERVISE THE ISRAELI WITHDRAWAL.

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(7) THIS PROPOSAL INCLUDES A DEMAND CONCERNING THE END OF ISRAELI PRESENCE AND MILITARY CONTROL OF THE TERRITORIES, SINCE IT SAYS IN ARTICLE 5 "THE ISRAELI MILITARY GOVERNMENT IN THE WEST BANK AND THE GAZA STRIP SHALL BE ABOLISHED AT THE OUTSET OF THE TRANSITION PERIOD," WHICH MEANS THAT THERE WILL BE NO MORE ISRAELI AUTHORITY, NEITHER MILITARY OR OTHER IN THIS AREA, AND THE SUPERVISION OVER THE ADMINISTRATION OF THE WEST BANK WILL BECOME THE RESPONSIBILITY OF JORDAN, AND THE ADMINISTRATION OF THE GAZA STRIP SHALL BECOME THE RESPONSIBILITY OF EGYPT, WHICH MEANS THAT ISRAEL IS TOTALLY OUT OF ANY PARTICIPATION IN THE ADMINISTRATION OF THIS AREA. EVEN DURING THE TRANSITIONAL PERIOD, SINCE THE ISRAELI MILITARY GOVERNMENT IN THE WEST BANK AND THE GAZA STRIP SHALL BE ABOLISHED AT THE OUTSET. AND THESE AREAS ARE GOING TO BE TRANSFERRED TO WHAT IS CALLED HERE AN ARAB AUTHORITY.

(8) THE PROPOSAL MAKES A DISTINCTION BETWEEN THE ISSUE AS SUCH OF WITHDRAWAL FROM THE TERRITORIES AND THE ABOLITION OF THE MILITARY GOVERNMENT, AND THE MODALITIES AND TIME TABLE OF SUCH WITHDRAWAL. WHILE THE WITHDRAWAL AND THE ABOLITION OF THE MILITARY GOVERNMENT ARE NOT SUBJECT TO DISCUSSION, THE ONLY POINTS THAT ARE GOING TO BE DISCUSSED ARE THE POINTS MENTIONED IN PARA 3 OF THE EGYPTIAN PROPOSAL, WHICH ARE THE TIME TABLE FOR THE ISRAELI WITHDRAWAL, MUTUAL SECURITY ARRANGEMENTS FOR ALL THE PARTIES CONCERNED, DURING AND FOLLOWING THE TRANSITIONAL PERIOD, MODALITIES FOR THE

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IMPLEMENTATION OF RELEVANT UN RESOLUTIONS ON PALESTINIAN REFUGEES AND OTHER ISSUES CONSIDERED APPROPRIATE BY ALL PARTIES. AND THIS IS IMPORTANT TO MENTION, BECAUSE YOU ARE GOING TO BE TOLD THAT IF ISRAEL HAS ANY ADDITIONAL PROBLEMS TO FACE IN THESE TALKS SUCH AS PEACE TREATIES OR ANY OTHER CHANGES IN BORDERS WHICH ARE NOT INCLUDED HERE, OF COURSE

THERE MUST BE UNANIMOUS BY ALL THE PARTIES TO HAVE A DISCUSSION OF THIS, BECAUSE IT'S MENTIONED THAT THE OTHER ISSUES -- THE IMPLICATION BEING CONCERNING THE DETAILS OF THE TRANSITIONAL REGIME AND SO ON -- HAVE TO BE ACCEPTED BY ALL THE PARTIES TO THESE TALKS WHICH INCLUDE, AS YOU KNOW, THE UN AS WELL.

(9) FOR THE FIRST TIME, IN WRITTEN FORM, EGYPT DEMANDS THE DISMANTLING OF ALL THE SETTLEMENTS OF THE WEST BANK AND GAZA, WHICH MEANS THAT IF YOU HAVE A JEWISH SETTLEMENT IN GUSH ETZION -- AN AREA THAT WAS INHABITED BY JEWS BEFORE '48, AND THE INHABITANTS WERE ASSASSINATED BY THE INVASION OF THE JORDANIAN ARMY - THESE SETTLEMENTS HAVE TO BE DISMANTLED, AND IT'S MADE SPECIFIC IN THIS PROPOSAL. THERE IS NO REFERENCE TO THE TYPE OF SECURITY ARRANGEMENTS TO BE AGREED UPON, NO REFERENCE TO LIMITATION OF FORCES AND ARMAMENT, NO REFERENCE TO DEMILITARIZATION. THIS DOCUMENT REFERS REPEATEDLY TO THE PALESTINIAN PEOPLE THAT HAS TO DETERMINE ITS OWN FUTURE, AND THAT WILL HAVE ITS OWN REPRESENTATIVE, BUT CONTRARY TO THE PROPOSAL THAT WAS DISCUSSED BEFORE, THERE IS NO REFERENCE TO THE FACT THAT THESE PALESTINIANS MUST BE RESIDENTS OF THESE AREAS, WHICH MEANS THAT PALESTINIANS LIVING IN KUWAIT, LEBANON OR ELSEWHERE WILL ALSO PARTICIPATE IN THE DETERMINATION OF THEIR OWN FUTURE.

WHAT ARE THE POINTS THAT ARE GOING TO BE MENTIONED AS POSITIVE POINTS?

(A) YOU'LL BE TOLD THAT THERE IS NO REFERENCE TO THE PLO BUT IF YOU READ THE TEXT THERE IS NOTHING IN THIS TEXT THAT WOULD BE CONTRARY TO THE PHILOSOPHY OF THE PLO, AND IF YOU READ THE TEXT, EVEN THE (PART CONCERNING) SECURITY ARRANGEMENTS, IT'S NOT MENTIONED IF THESE ARE SECURITY ARRANGEMENTS

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CONCERNING ISRAEL, BECAUSE THEY SAY THAT SECURITY ARRANGEMENTS CONCERN ALL THE PARTIS. THERE IS NO REFERENCE TO THE PLO BY NAME, BUT THERE IS NOTHING IN THIS PROPOSAL THAT WOULD PREVENT THE PLO FROM BECOMING A PARTY TO THE NEGOTIATIONS THE WAY THIS PROPOSAL IS WORDED.

(B) THE SECOND POSITIVE POINT, POSITIVE IN INVERTED COMMAS, IS THE FACT THAT THERE IS NO REFERENCE TO A PALESTINIAN STATE, AND THAT THE WORD SELF-DETERMINATION WAS DELETED. IN FACT, IF YOU HAVE A REFERENCE TO RESTORATION OF ARAB AUTHORITY, IF YOU HAVE A REFERENCE TO THE FACT THAT THE PALESTINIAN PEOPLE WILL DETERMINE THEIR OWN FUTURE, WHAT IS SELF-DETERMINATION IF NOT TO DETERMINE ONE'S OWN FUTURE? SO, THESE POSITIVE ELEMENTS ARE IN FACT NONEXISTENT. END TEXT. LEWIS

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRESS CONFERENCES, PEACE PLANS, DIPLOMATIC REPRESENTATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 12 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 jan 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978TELAV08757
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780285-0493
Format: TEL
From: TEL AVIV
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780767/aaaacemu.tel
Line Count: 273
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 47cd7e76-c288-dd11-92da-001cc4696bcc
Office: ACTION NEA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 15 apr 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2029438
Secure: OPEN
Status: NATIVE
Subject: MFA LEGAL ADVISER BRIEFS PRESS ON EGYPTIAN PROPOSAL
TAGS: PEPR, IS, EG, US, (ROSENNE, MEIR)
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/47cd7e76-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014